IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 4603 OF 2004

WITH

CRIMINAL APPLICATION NO. 4605 OF 2004

WITH

CRIMINAL APPLICATION NO. 5296 OF 2004

Bharat Baliram Karande and
another, etc., etc. ... Applicants

versus

The State of Maharashtra
etc., etc. ... Respondents

...

Mr. R.S. Kate, for the Applicants in
Crl.Applns.Nos. 4603 and 4605 of 2004 and for
the Respondents in Crl.Appln.No. 5296 of 2004.
Mr. K.V. Saste, for the Respondents in
Crl.Applns.Nos. 4603 and 4605 of 2004 and for
the Applicant in Crl.Appln.No. 5296 of 2004.

...

CORAM : A.M.KHANWILKAR,J.

20th December 2004

P.C.:

. Heard Counsel for the parties. The Applicants in Criminal Application No. 4603 of 2004 are original accused Nos. 10 and 11. Whereas the Applicants in Criminal Application No. 4605 of 2004 are original accused Nos. 1, 2, 4 and 8. They have filed these applications for relaxation of condition of bail granted by this Court on 17th March 2004 in relation to case registered as CR.No. 78/2003 with Kurduwadi Police Station. Criminal Application No. 5296 of 2004 has been taken out by the State of Maharashtra for cancellation of bail in respect of accused Nos. 1, 2, 4, 8, 10 and 11 respectively. The ground pressed into service on behalf of the State is that the said accused failed to comply with the condition imposed on them to attend the concerned police station once a week. Chart has been given in para 8 of the application to explain how many defaults were committed by the respective accused. The concerned accused, through their Counsel, submit that some of the dates mentioned in the said chart are incorrect. In reply, they have given details about the attendance made with the concerned police station by them on different dates. Besides, it is brought to my notice that

the trial has virtually concluded. In the interest of justice, therefore, it is submitted that this Court ought not to cancel the bail, but instead relax the condition as imposed by this Court by permitting the Applicants to enter restricted area.

. Having considered the rival submissions, the argument canvassed on behalf of the concerned accused will have to be accepted to the limited extent that bail in respect of accused Nos. 1, 4, 10 and 11 as was granted earlier will remain as it. However, bail in respect of accused Nos. 2 and 8 is cancelled, as it is established on the record that they have indulged in another offence registered against them at Kurduwadi Police Station being CR.No. 72/2004 under section 392 read with section 34 of the Indian Penal Code. Accordingly, Criminal Application No. 5296 of 2004 for cancellation of bail preferred by the State of Maharashtra succeeds only in respect of accused Nos. 2 and 8, namely, Santosh Vithal Khatke and Baburao Vithoba Bhosale and is rejected in respect of other accused, namely, accused Nos. 1, 4, 10 and 11. Accordingly, Accused Nos. 2 and 8 be taken into custody

forthwith.

. Insofar as request made by accused Nos. 1, 4, 10 and 11 for allowing them to enter the restricted area is concerned, in view of the peculiar facts of the present case, including that they had failed to attend the concerned police station in terms of the order passed by this Court, that request is rejected. In other words, Criminal Application Nos. 4603 of 2004 and 4605 of 2004 are rejected and Criminal Application No. 5296 of 2004 is partially allowed only to the extent of accused Nos. 2 and 8.

(A.M.KHANWILKAR,J.)